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To: Commissioner for Patents for **Examiner Thu V. Huynh** **Group Art Unit 2178**	Facsimile No.: **703/872-9306**
From: Carrie Parker Legal Assistant to Betty Formby	No. of Pages Including Cover Sheet: **22**

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Enclosed herewith:

- Transmittal Document; and
- Appeal Brief.

Re: Application No. **09/546,719**
Attorney Docket No: **JP990055**

Date: Monday, February 07, 2005

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Sakairi**

Serial No.: **09/546,719**

Filed: **April 11, 2000**

For: **Method and System for Preparing and Displaying Page Structures for Web Sites**

§ Group Art Unit: **2178**

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§ Examiner: **Huynh, Thu V.**

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§ Attorney Docket No.: **JP990055**

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By: Carrie Parker

Carrie Parker

36736

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- Appeal Brief (37 C.F.R. 41.37).

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Respectfully submitted,

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Docket No. JP990055

PATENT

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Examiner: **Huynh, Thu V.**

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By: Carrie Parker
Carrie Parker

APPEAL BRIEF (37 C.F.R. 41.37)

This brief is in furtherance of the Notice of Appeal, filed in this case on December 6, 2004.

The fees required under § 41.20(B)(2), and any required petition for extension of time for filing this brief and fees therefore, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

REAL PARTY IN INTEREST

The real party in interest in this appeal is the following party: International Business Machines Corporation (IBM) of Armonk, NY.

RELATED APPEALS AND INTERFERENCES

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are no such appeals or interferences.

STATUS OF CLAIMS

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

Claims in the application are: 1-13

B. STATUS OF ALL THE CLAIMS IN APPLICATION

1. Claims canceled: 7, 9-10, and 12-13
2. Claims withdrawn from consideration but not canceled: NONE
3. Claims pending: 1-6, 8, and 11
4. Claims allowed: NONE
5. Claims rejected: 1-6, 8, and 11
6. Claims objected to: NONE

C. CLAIMS ON APPEAL

The claims on appeal are: 1-6, 8, and 11

STATUS OF AMENDMENTS

None have been submitted.

SUMMARY OF CLAIMED SUBJECT MATTER

A. CLAIM 1 - INDEPENDENT

The subject matter of claim 1 is directed to a method for browsing a web site using a browser on a computer. The method is shown in the flowchart of **Figure 8** and described in the application from page 10, line 11 through page 11, line 10, while the effect of the method is shown in exemplary **Figures 5-7**, described in the application from page 9, line 5 through page 10, line 10. An overview of the method, including some of the earliest steps, are described earlier, on page 3, lines 4-20. The method comprises the following steps:

(a) receiving, from a web server, page structures and page attributes for the web site, discussed on page 3, lines 5-8;

(b) displaying the page structures and page attributes on a screen, discussed on page 3, lines 5-8;

(c) receiving input from a user regarding either ones of the page structures or ones of the page attributes; and

(d) in response to receiving the input, dynamically changing the display of a page structure if a page attribute was selected (steps **850** and **855**, discussed on page 11, lines 2-7) and dynamically changing the display of a page attribute if a page structure was chosen (steps **860** and **865**, discussed on page 11, lines 7-10), wherein the display that is dynamically changed reflects a correlation between said page structures and said page attributes. The types of changes that can be made to the display are graphically shown in **Figures 5-7**. **Figure 5**, discussed on page 9, lines 5-17) shows an exemplary page with site map **530** and attribute (here, keyword) list **520**. **Figure 6**, discussed on page 9, line 18 through page 10, line 2, shows how the user marking an attribute can cause the attribute to be displayed **540** wherever it is present. **Figure 7**, discussed on page 10, lines 3-10, shows how the user marking a section of the site map causes the number of times each attribute is found on the given pages to be shown.

B. CLAIM 2 - INDEPENDENT

The subject matter of claim 2 is directed to a web site browsing system, which includes a server for a web site and a browser connected to browse the web site. The system, including server and browser, are shown in **Figure 2**, discussed on page 20, line 24 through page 5, line 23. This is a system claim corresponding to method claim 1, with the added recitation of the ability to request web structures and the attributes of the web pages.

C. CLAIM 3 - DEPENDENT

The subject matter of claim 3 is directed to the web site browsing system of independent claim 2. This claim further notes that the page attributes are keywords included in the pages of the web site, the number of times the keywords appear, the sizes of files, the number of files, and the dates files are updated, discussed on page 4, lines 19-20.

D. CLAIM 11 - INDEPENDENT

The subject matter of claim 11 is directed to a web site browsing computer, which includes a communication device for communicating with another computer; and a display device for browsing and displaying a web site by using a web site browser program. The computer is shown in **Figures 2 and 3**, which are discussed on page 4 line 24 through page 6, line 14. This system claim generally corresponds to method claim 1.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. GROUND OF REJECTION 1 (Claims 1-2, 4-6, and 8)

Claims 1-2, 4-6, and 8 stand rejected under 35 U.S.C. § 103 as obvious over Astiz (6,035,330) in view of Weinberg et al (6,360,332).

B. GROUND OF REJECTION 2 (Claim 3)

Claim 3 is rejected over Astiz in view of Weinberg and Kanevsky et al (6,426,761).

C. GROUND OF REJECTION 3 (Claims 1-2, 5 and 11)

Claims 1-2, 5 and 11 are rejected over Belfiore et al (6,525,748) in view of Weinberg.

D. GROUND OF REJECTION 4 (Claim 3)

Claim 3 is rejected over Belfiore in view of Weinberg and Kanevsky.

E. GROUND OF REJECTION 5 (Claims 4, 6, and 8)

Claims 4, 6, and 8 are rejected over Belfiore in view of Weinberg and Astiz.

ARGUMENT

A. GROUND OF REJECTION 1 (Claims 1-2, 4-6, and 8)

These claims are rejected as obvious over Astiz in view of Weinberg. Representative claim 1 reads,

> 1. (Previously presented) A method for browsing a web site using a browser program running on a computer, comprising the steps of:
> (a) receiving, from a server for a web site, a plurality of page structures and a plurality of page attributes for said web site, including information concerning said web site;
> (b) displaying said plurality of page structures and said plurality of page attributes on a screen for a user;
> (c) receiving, from the user, an input selecting either ones of said plurality of page structures or ones of said plurality of page attributes; and
> (d) in response to receiving said input from the user, dynamically changing the display of at least one of said plurality of page structures if ones of said plurality of page attributes were selected and dynamically changing the display of at least one of said plurality of page attributes if ones of said plurality of page structures were chosen, wherein the display that is dynamically changed reflects a correlation between said page structures and said page attributes.

It is submitted that there are at least two problems with this rejection: (a) Weinberg is not in an analogous art to the present invention and claims and (b) Weinberg does not show what it is cited to show. These problems will be looked at separately.

Weinberg is not in an analogous art

While the aim and art of a reference are not important in an anticipation rejection, the same is not true in an obviousness rejection. In acknowledging this fact, the Federal Circuit has stated,

> In order to rely on a reference as a basis for rejection, the reference must be either in the applicant's field of endeavor or, if not, then reasonably pertinent to the particular problem with which the inventor was concerned. *In re Oetiker*, 977 F.2d 1443, ___, 24 U.S.P.Q.2d 1443, 1445 (Fed. Cir. 1992); *In re Deminski*, 796 F.2d 436, 442, 230 U.S.P.Q. 313, 315 (Fed. Cir. 1986).

It is noted that the present application opens with the following statement of the field of invention,

> The present invention relates to a system for displaying the page structures for web sites, and in particular to a method and a system for preparing and displaying the page structures for web sites in accordance with the page attributes used at the web sites.[1]

The claims also, as evidenced by exemplary claim 1 above, are directed to displaying information about the website. The claims show changing the display of attributes when a related structure is chosen and changing the display of structures when a related attribute is chosen. This ability is valuable because it allows the user to specify an attribute, such as a key word, and have the website indicate structures, such as pages, where the attribute can be found. Rather than having to laboriously go through an entire website, or, more likely, giving up, the invention allows the user to determine quickly whether a reference to an item of interest is what they need.

In contrast, Weinberg offers the following statement of its field of invention,

> The present invention relates to user interfaces and associated methods for testing the functionality of transactional servers.

Additionally, Weinberg offers the following explanation of the invention,

> The present invention ... [provides] a software-implemented testing tool for generating, running, and viewing the results of tests for testing transactional servers. The various inventive features of the testing tool may be used separately or in combination to test the functionality of a variety of different types of transactional servers. In a preferred embodiment, the testing tool is used to test web-based, SAP-based and mainframe-based servers.
>
> In a preferred embodiment, the testing tool generates tests by recording interactions between a user and the transactional server as the user performs a transaction, such as a business process. For example, in a web-based implementation, the testing tool records interactions between a web browser and a web server, including link selections and form submissions made by the user and pages returned by the server. During or following the recording session, the user can define verification steps to test for expected server responses. For example, the user can define verification steps to test for expected text messages, images, or numerical values within a web page or other screen returned by the transactional server. During execution of the test, which may occur in either an attended or unattended mode, the testing tool "plays back" the recorded user steps while monitoring and recording the responses of the transactional server. The results of the test, including the results of the verification steps, are stored for viewing.

[1] Application, page 1, lines 4-6

Applicants submit that it is difficult to see any similarity between the stated field of Weinberg and the stated field of the presently claimed invention. However, the Advisory Action, responding to applicant's earlier assertion of non-analogous art, responded,

> This is not persuasive. Weinberg teaches user interface of testing tool which dynamically highlights page attributes/page when receiving user's input to reflect correlation between such page and page attributes[2]

It is submitted that this response misses the entire point of applicant's argument. The concept of non-analogous art is based on the idea that no person can be well versed in all areas of knowledge. Patent law specifically expects that an inventor will be cognizant of any work in their field. However, the law cannot and does not expect the inventor to be knowledgeable in all fields. To say this another way, when dealing with a problem in field **A**, an inventor is expected to be aware of work done by others in field **A**, but the inventor is not expected to have read extensively in unrelated fields. It is submitted that the field of art of Weinberg and the present invention are disparate enough that one of ordinary skill in the art could not reasonably be expected to be familiar with Weinberg. In such a case, it does not matter that somewhere inside the patent is information that is relevant, because the inventor has no reason to look at the patent in the first place. This is the point of a non-analogous art argument. It is submitted that Weinberg is just such a piece of non-analogous art and that because of this fact, the patent is not available for an obviousness rejection.

The Board of Appeals is requested to reverse this rejection.

Weinberg does not show what it is cited to show

In addition to the argument above, it is respectfully submitted that the claimed steps are not shown in Weinberg. Regarding claim 1, the rejections states that Weinberg teaches,

> "in response to receiving an input from a user, dynamically changing the display of at least one of said plurality of page structures if ones of said plurality of page attributes were selected and dynamically changing the display of at least one of said plurality of page attributes if ones of said plurality of page structures were chosen, wherein the display that is dynamically changed reflects a correlation between said page structures and said page attributes (Weinberg, fig.2, col. 11, line 63 - col. 12, line 3; col.13, lines 57-59 and col.24, lines 37-53; dynamically highlight page "Order type: OR" in hierarchy tree when selecting the attribute "order type field"" and dynamically highlight

[2] Advisory Action, page 2, entire response

attribute "Thomas Bush Inc." when the "Thomas Bush Inc." page in the hierarchy tree were selected)."

Weinberg says the following,

"In one embodiment, when user data is entered in a field of the transactional server screen displayed in the capture window 206, such as the order type field 210, the corresponding step 212 in the tree window 204 is highlighted. Similarly, when the user selects a step of the tree, the corresponding server screen is displayed in the server capture window 206 and the corresponding screen object (is any) is highlighted. In this manner, the user can easily locate a step or associated screen field, such as to modify step properties during editing of the test"[3].

Thus, it appears that the rejection is equating the attributes and page structures of the claimed invention with the fields and steps in the application being tested by Weinberg's program. It is noted that the applicants do not claim to have invented the concept of using display techniques to show correlations. Rather, they claim to have applied this concept to a specific situation to provide a benefit that has not been previously present. More specifically, they have applied the idea to the display of web sites in such a way that it aids users in finding specific information on websites. Weinberg does not show highlighting the correlation between page attributes and page structures on a website; it shows highlighting a correlation between fields in a form and the steps of a procedure. These are not the same. Therefore, Weinberg does not show the claimed action of "dynamically changing the display of at least one of said plurality of page structures if ones of said plurality of page attributes were selected and dynamically changing the display of at least one of said plurality of page attributes if ones of said plurality of page structures were chosen". It is submitted that, just as a piecemeal attack on references does not overcome a rejection, as examiners often remind us, a piecemeal construction of references does not make the claims obvious. The Board of Appeals is requested to reverse the rejection and allow these claims.

[3] Weinberg, column 11, line 63 through column 12, line 5

B. GROUND OF REJECTION 2 (Claim 3)

Claim 3 reads thus,

> 3. The web site browsing system according to claim 2, wherein said page attributes are keywords included in said web pages at said web site, a number of times said keywords appear, sizes of files, a number of files and dates files are updated.

This dependent claim further defines the page attributes, clarifying that they can be (1) keywords found on the pages of the site, (2) the number of times a keyword appears, (3) the size of the files, (4) the number of files, and (5) the date that files are updated. These are the specific attributes that can be shown in correlation with the structures, such as pages.

Claim 3 depends on claim 2, which is included in the rejection above, and both the reliance on Astiz and Weinberg and the arguments given regarding these patents apply to this claim. It is submitted that the claim should be allowed, both because of the arguments submitted regarding its parent claim and for its own reasons. The rejection of this claim includes the following new statement,

> Kanevsky teaches a web page displaying having attributes, such as a number of time said keywords appear, size of files, a number of files and date files are updated (Kanevsky, col. 1, lines 60-65, fig.3, item 510, 520, 530, 540, 550; col. 9, lines 60-67).

Figure 3 of Kanevsky is reproduced on the following page, while the cited portions of this patent read,

> It is another object of the invention to provide a web browser GUI implementing a system for automatically organizing and displaying related webtop display elements, e.g., text, web-page links, in clusters, for display according to a fractal appearance so that web browser's display space may be conserved.[4]
>
> As shown in the detailed information readout display portion 500 (pop-up window) of FIG. 3(b), queryable parameters include: the number of total icons in the cluster 510; the fractal dimension of a cluster 500; the radius of gyration or other spatial characteristics 530; the number of "invisible" (hidden) icons 540; and, any other cluster attributes 550 such as: average creation date of the information represented by all icons in the cluster; average creation date of the icons in the cluster; the nature and size of the information represented by the cluster; the number of times the information has been accessed in the cluster by the user or others; the last time information in the cluster was accessed, the

[4] Kanevsky, col.1, lines 59-65

length of time the user, or others, spent navigating the cluster ...[5]

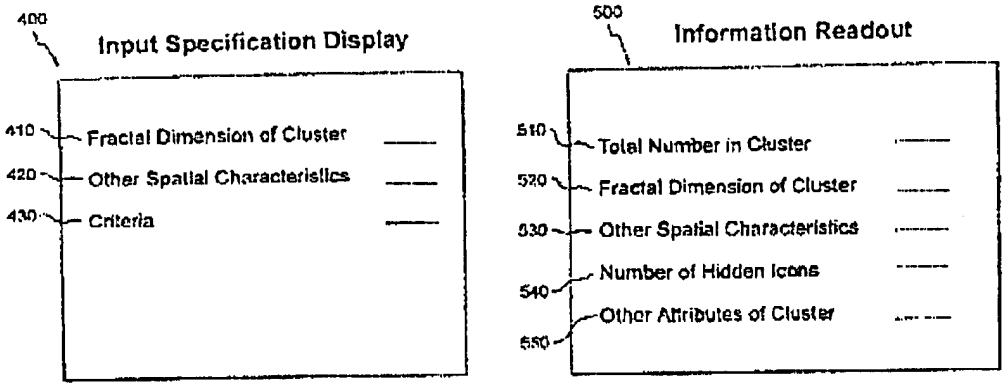


FIG. 3(a) FIG. 3(b)

Kanevsky

It is noted that Kanevsky does show attributes, as suggested, but it is further noted that the attributes of Kanevsky are the attributes of a cluster of icons, not the attributes of a page on a website. It is asserted that this is a further use of a piecemeal rejection. Kanevsky does not show page attributes that include keywords, the number of times a keyword appears, etc. Kanevsky does not meet the claim limitations that are attributed to it. The Board of Appeals is requested to reverse the rejection of this claim.

C. GROUND OF REJECTION 3 (Claims 1-2, 5 and 11)

Claims 1-2, 5 and 11 are rejected over Belfiore et al (6,525,748) in view of Weinberg.

It is submitted that this rejection also relies on Weinberg; the arguments that were submitted in ground of rejection A also apply to this rejection. That is, Weinberg is not an analogous art and further, this patent does not show what it has been cited to show. It is submitted that this rejection has been overcome and the Board of Appeals is requested to reverse the rejection.

[5] Kanevsky, column 9, lines 54-67

D. GROUND OF REJECTION 4 (Claim 3)

Claim 3 is rejected over Belfiore in view of Weinberg and Kanevsky.

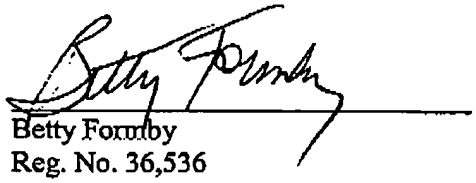
It is submitted that this rejection is similar to the second ground of rejection in that it relies on both Weinberg and Kanevsky. It is submitted that the same arguments that were submitted in the second ground of rejection also apply to this rejection. That is, Weinberg is not in an analogous art and further, this patent does not show what it has been cited to show. Additionally, Kanevsky docs not show what it has been cited to show. It is submitted that this rejection has been overcome and thc Board of Appeals is requested to reverse the rejection.

E. GROUND OF REJECTION 5 (Claims 4, 6, and 8)

Claims 4, 6, and 8 are rejected over Belfiore in view of Weinberg and Astiz.

It is submitted that these claims ultimately depend from claim 2, which has been argued above. It is submitted that this rejection again relies on Weinberg, which is not an analogous art and which should not have been used in this rejection. The Board of Appeals is requested to reverse the rejection.

It is requested that the Board of Appeals reverse all rejections of these claims and allow this application to issue as a patent.



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CLAIMS APPENDIX

The text of the claims involved in the appeal are:

1. A method for browsing a web site using a browser program running on a computer, comprising the steps of:

(a) receiving, from a server for a web site, a plurality of page structures and a plurality of page attributes for said web site, including information concerning said web site;

(b) displaying said plurality of page structures and said plurality of page attributes on a screen for a user;

(c) receiving, from the user, an input selecting either ones of said plurality of page structures or ones of said plurality of page attributes; and

(d) in response to receiving said input from the user, dynamically changing the display of at least one of said plurality of page structures if ones of said plurality of page attributes were selected and dynamically changing the display of at least one of said plurality of page attributes if ones of said plurality of page structures were chosen, wherein the display that is dynamically changed reflects a correlation between said page structures and said page attributes.

2. A web site browsing system, which includes a server holding information for a web site and a browser connected to said server for browsing said a web site, comprising:

(a) means for requesting, from said server, a plurality of web structures at said web sites and a plurality of attributes of said web pages, and for receiving said plurality of page structures and said plurality of page attributes; and

(b) means for displaying said plurality of page structures and said page attributes;

(c) means for receiving, from the user, an input selecting either ones of said plurality of page structures or ones of said plurality of page attributes; and

(d) means for dynamically changing, in response to receiving said input from the user, the display of at least one of said plurality of page structures if ones of said plurality of page attributes were selected and dynamically changing the display of at least one of said plurality of page attributes if ones of said plurality of page structures were chosen, wherein the display that is dynamically changed reflects a correlation between said page structures and said page attributes.

3. The web site browsing system according to claim 2, wherein said page attributes are keywords included in said web pages at said web site, a number of times said keywords appear, sizes of files, a number of files and dates files are updated.

4. The web site browsing system according to claim 2, wherein said server includes means for using contents held by said server or by another web server to prepare said web page structures and said page attributes for said web pages at said web site.

5. The web site browsing system according to claim 2, wherein said server includes means for upon receiving a request from said browser, transmitting to said browser a program that includes a command processor, a page attribute processor and a page structure processor, all of which are required to display said page structures and said page attributes in correlation with each other.

6. The web site browsing system according to claim 5, wherein said command processor includes means for, in accordance with a browser change manipulation performed by a user, displaying a command for changing a display of said page structures and said page attributes, as well as said page structures and said page attributes.

8. The web site browsing system according to claim 5, wherein said program includes means for displaying, together with said page structures and said page attributes, a list of command areas for changing the displays of said page structures and said page attributes.

11. A web site browsing computer, which includes a communication device for communicating with another computer; and a display device for browsing and displaying a web site by using a web site browser program, said web site browsing computer comprising:

(a) means for receiving, via said communication device, page structures at said web site and page attributes included in web pages from a computer holding information for said web site; and

(b) means for using said web site browser program to display said page structures and said page attributes;

(c) means for receiving, from the user, an input selecting either ones of said plurality of page structures or ones of said plurality of page attributes; and

(d) means for dynamically changing, in response to receiving said input from the user, the display of at least one of said plurality of page structures if ones of said plurality of page attributes were selected and dynamically changing the display of at least one of said plurality of page attributes if ones of said plurality of page structures were chosen, wherein the display that is dynamically changed reflects a correlation between said page structures and said page attributes.

EVIDENCE APPENDIX

There is no evidence to be presented.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings.